

Hungarians outside Hungary – the twisted story of dual citizenship in Central and Eastern Europe

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In 2010, Hungary amended its [Citizenship Act](#) to pave the way for a preferential naturalisation of Hungarians living abroad. This was met with great alarm among Hungary's neighbours: As a consequence of the Trianon Peace Treaty in the aftermath of World War I, by which Hungary lost large swaths of its territory, a considerable part of the citizenship of Romania, Slovakia, Serbia, Ukraine and other states nowadays consists of ethnic Hungarians. Four years after, tensions between Hungary and its neighbours with respect to dual citizenship are still palpable, since the number of new Hungarian citizens increases continually and already exceeds half million.

The amendment of the Hungarian Citizenship Act gives any non-Hungarian citizen, whose ascendant was a Hungarian citizen or who demonstrates the plausibility of his or her descent from Hungary and provides proof of his or her knowledge of the Hungarian language, the opportunity to apply for naturalization on preferential terms since 1 January 2011. For those who meet that description, the criteria of assured livelihood and permanent residence in Hungary no longer matter, and no exam of basic constitutional knowledge is required any more.

Since Hungarians living outside the borders are mostly citizens of neighbouring states, their dual nationality depends on the attitude of these states. Romania and Hungary concluded an agreement on solution and prevention of cases of dual nationality in 1979, in line with the practice of socialist states at that time, but that agreement was terminated in 1990. Currently Romania belongs to the states that [recognise dual nationality](#), since Romanians living abroad have access to Romanian citizenship similarly to the Hungarian regulation. The main purpose of this rule is to promote the gaining of citizenship for Romanians living in Moldova. [Croatia](#), [Serbia](#) and [Slovenia](#) deal with dual nationality of their compatriots abroad in much the same way.

Other neighbouring states of Hungary take a much harsher stance toward dual citizenship. Ukraine, for one, unambiguously prohibits dual nationality. Consequently Hungarians living in Ukraine may [lose their Ukrainian citizenship upon the acquisition of Hungarian nationality](#). Since more than sixty thousand Ukrainian citizens acquired Hungarian citizenship in the last three years, it is surely significant that the Ukrainian Parliament adopted an amendment of the criminal code on 2 October 2012, and introduced a fine for persons of full age, who do not report within six months their new nationality gained upon their request. That law was sent back by the President to the Parliament for reconsideration, but a new proposal was submitted in February 2014 envisaging a similar fine as well as imprisonment for those who vote or hold public office while being a dual national. [Austria](#) also belongs to the group of states which refuses dual nationality. An Austrian will lose his or her nationality upon acquiring Hungarian nationality, unless he or she was previously granted the right to retain it.

The case of Slovakia

Slovakia responded promptly to the Hungarian amendment by legal means: it has changed her former practice and joined the group of states, which refuse dual nationality, with a view to avoiding dual nationality among the Hungarian minority. Until 2010, the Slovak Citizenship Act stipulated that citizenship could only be lost upon an explicit personal request for release from the state bond. There existed no regulation concerning the loss of citizenship of dual citizens, and several conditions were required for the elimination of the bond of citizenship. It is worth noting that a bilateral agreement was concluded by Czechoslovakia and Hungary in 1960, according to which persons possessing the nationality of both states had to make a choice and decide which nationality they wish to retain. Following the dissolution of Czechoslovakia in 1992, the two states would have had to demonstrate that they regarded the treaty as effective in order to keep it in force. Hungary did not make a statement on this matter; what is more, the act that promulgated the treaty was revoked. Slovakia also should have made a notification of succession regarding the agreement, but that did not come to pass according to the available and conflicting pieces of information.

After the Hungarian Parliament had passed the amendment, the Slovak Citizenship Act was [rapidly amended](#) in

summer 2010. Slovaks now automatically lose their citizenship if they voluntarily acquire another nationality (except by birth or marriage). This regulation seems to be in conformity with the rules and principles of international law, including the right to a nationality and the prohibition of arbitrary deprivation of nationality. Moreover, the European Convention on Nationality of 1997 permits states to provide for the loss of nationality in their domestic enactments either *ex lege* or at the initiative of the state, in case a person voluntarily acquires another nationality. Nevertheless the harmony of the Constitution of Slovakia and the amendment of the Citizenship Act calls for thorough examination. The [Constitution](#) states that “[n]o one must be deprived of the citizenship of the Slovak Republic against his will”.

This provision begs the question: Can a request for Hungarian nationality be regarded as an intention of the person to give up his or her Slovak nationality? It can reasonably be argued that a request by a person for another nationality cannot be interpreted as a loss of nationality on his or her own will, even if he or she is aware of the consequences of that action, namely the loss of Slovak nationality. The will of the person concerned only covers the acquisition of Hungarian nationality, from which the intention of losing Slovak nationality cannot be convincingly deduced. This would call for a clarification by the Constitutional Court of Slovakia, but it rejected the request for a constitutional review of the Law on formal grounds on 17 September 2014. The European Court of Human Rights declared on 21 May 2013 (case [Fehér and Dolník v. Slovakia](#)) [the applications inadmissible on the ground, *inter alia*, that the breach of their rights under the Constitution of Slovakia and Slovakia’s international obligations other than undertakings under the Convention do not fall within the jurisdiction of the court.

The Slovak government has recently announced plans for an amendment of the citizenship act that would extend the possibility of retaining Slovak citizenship for those persons who permanently live abroad and acquire the citizenship of that country. If that amendment is adopted, a discrimination between cases of facts might occur, as the request by persons living in Slovakia of another nationality would bring about the loss of Slovak nationality. Notwithstanding all that, the data reveals the real impact of the Slovakian citizenship act, which appears to be, as far as ethnic Hungarians are concerned, surprisingly small: Some 800 persons have lost their Slovak nationality, the majority of whom are Czech. Only approximately 5% are Hungarians. However, the real number of Slovaks who acquired Hungarian citizenship is around two thousand, but Slovakian authorities cannot access the data, as these individuals seldom report their new citizenship.

The overview of neighbouring states reveals that Croatia, Romania, Serbia and Slovenia recognise dual nationality, whereas Austria, Slovakia and Ukraine prohibit it. Hungarians living in the latter three states will lose their nationality, if they voluntarily acquire Hungarian nationality on the basis of the amendment of the Hungarian Citizenship Act.

Hungary and several neighbouring states – Croatia, Romania, Slovakia, Slovenia and Ukraine – concluded similar bilateral treaties between 1992 and 1996 (See e.g. the treaty between [Hungary and Slovakia](#); the treaty between [Hungary and Romania](#)). They undertook to develop their relations in the spirit of good neighbourliness, confidence and friendly co-operation, and to establish an appropriate framework for co-operation and maintain a dialogue in all fields of mutual interest. In line with the obligations laid down in these treaties, Hungary should have initiated negotiations prior to the amendment of the Citizenship Act. Matters of preferential naturalisation of Hungarians living in the neighbouring states and possessing the nationality thereof certainly constitute an area of mutual interest. Slovakia and Ukraine likewise should have negotiated with Hungary before their reaction to the Hungarian legislation with a view to preserve good neighbourliness, confidence and friendly co-operation.

In order to ensure friendly relations, the states concerned should co-operate and consult in every field related to the preferential naturalisation of Hungarians living outside the borders. From the point of view of Hungary, an eventual amendment of the Citizenship Act or an expansion of citizenship rights by means of facilitating their exercise would undoubtedly call for consultations. Neighbouring states, on the other hand, which prohibit dual nationality, should also negotiate with Hungary concerning any future amendments of the legal consequences related to the loss of their nationality.

In light of the historical events, the introduction of preferential naturalisation for ethnic Hungarians living outside the borders resulted in a prolonged conflict with certain neighbouring states. The initiation of meaningful

negotiations and the promotion of a constructive co-operation, as envisaged by the bilateral treaties, would be essential for the development of inter-state relations and for the protection of individuals, who have or will become Hungarian nationals. Without dialogue and conciliation, only the emergence of further problems can be taken for granted.

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